

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

M&C CORPORATION, a
Michigan corporation,

Plaintiff,

vs.

Civil Action No. 91-CV-74110

ERWIN BEHR GmbH & COMPANY,
KG, a foreign corporation, HEINZ
ETZEL, MICHEL KARKOUR, and
SAMI SARKIS, jointly and severally,

Hon. Paul V. Gadola
U.S. District Judge

Defendants,

And

BEHR INDUSTRIES CORPORATION,
a Delaware corporation,

Intervening Defendant.

**ORDER GRANTING EMERGENCY MOTION FOR DISCOVERY, TEMPORARY
INJUNCTION
AND TRANSFER OF BEHR INDUSTRIES TO RECEIVER**

**At a session of the Court held in
Flint, Michigan, on December 21, 2007**

**PRESENT: Hon. Paul V. Gadola
United States District Judge**

This matter came on before the Court on the Emergency Motion for Discovery, Temporary Injunction and Transfer of Behr Industries to Receiver (“the Emergency Motion”), and the Court has read the Motion and conducted a hearing in open Court at which counsel for Plaintiff and for Intervening Defendant Behr Industries Corporation were present, and at which counsel for Plaintiff advised the Court that counsel for Defendant Erwin Behr GmbH & Co. has

been advised of the pendency of this motion and that no relief against that defendant has been sought in the Emergency Motion, and the Court having heard the arguments of counsel and is fully advised in the premises and, for purposes of Fed.R.Civ.P. 65(b) it clearly appearing to the Court that immediate and irreparable injury, loss or damage will result to Plaintiff due to the fact that a sale of the direct or indirect ownership of Behr Industries Corporation, currently subject to a receivership order of this Court, may be transferred beyond the reach of this Court in the event that it is later determined that it is or should be treated as an asset of Defendant Erwin Behr, GmbH & Co., KG, for purposes of satisfying indebtedness due to Plaintiff.. For the reasons stated by the Court during the hearing on this matter,

IT IS ORDERED AS FOLLOWS:

A. The deposition of Norbert Dieterle, an officer of Behr Industries Corporation, shall occur within the next 10 days. Attorneys for the parties may be present by telephone.

B. Behr Industries Corporation, its officers, directors, shareholders, employees, agents, servants, attorneys, and all other persons in active concert or participation with them, including (but not limited to) all persons and entities owning any interest therein, directly or indirectly, therewith to whom notice thereof shall come by actual notice or otherwise ARE ENJOINED from engaging in any transaction by which any interest in Behr Industries Corporation, directly or indirectly, or any asset of Behr Industries Corporation may be transferred to any other person or business entity pending further hearing before this Court which shall occur on Tuesday, January 8, 2008, at 1:00 p.m. However, this Order is not intended to interrupt the standard daily operations of Behr Industries Corporation, and as such, this Order shall not prevent transactions required to sustain the normal course of business.

C. Pending the hearing to occur at that time, the ownership rights of Behr Industries Corporation shall be placed in the possession of the Receiver, Gerald Hepp;

IT IS FURTHER ORDERED that M&C shall post a bond of \$100,000.00 for the payment of any such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained by this Order. The bond shall be posted by the close of business on December 24, 2007. This Order shall take effect upon the posting of the bond.

Dated: December 21, 2007 at 3:40 p.m. s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on December 21, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Irwin Alterman, Elisa Angeli, Richard Bisio, Russ Boltz, Michael Fayz, Anthony Long, John Louisell, Larry Saylor, Michael Wais, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: N/A

s/Tammy Hallwood
Tammy Hallwood, Deputy Clerk
(810) 341-7845